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NATIONAL CABLE & TELECOMMUNICATIONS ASSOCIATION

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**EX PARTE**

February 1, 2005

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

Re: CS Docket No. 98-120, MB Docket No. 03-15

Dear Ms. Dortch:

On January 31, 2005, Jill Luckett, Senior Vice President, Program Network Policy, Michael S. Schooler, Deputy General Counsel, Diane Burstein, Deputy General Counsel and the undersigned met with Jonathan Cody, Legal Advisor to Chairman Michael K. Powell. We discussed the growing carriage by cable operators of broadcaster's digital signals, as detailed in our *ex parte* filed January 26, 2005, in the above-referenced dockets.

We also discussed why "primary" used in the broadcast carriage statute must be read in a manner that sustains the statute's constitutionality and that this means "primary" means only "one."

If you have any questions, please contact the undersigned.

Respectfully submitted,

**/s/ Daniel L. Brenner**

Daniel L. Brenner

cc: Jonathan Cody